

**FILED**

MARCH 31, 1980

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF MEDICAL EXAMINERS

In the Matter of the Suspension :	
or Revocation of the License of :	Administrative Action
EVERETTE E. NELSON, D.C. :	
:	FINAL DECISION AND ORDER
To Practice Chiropractic in the :	
State of New Jersey :	
:	
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Thomas H. Shar, Deputy Attorney General appeared  
for the State (John J. Degnan, Attorney General,  
attorney)

Leopold A. Monaco appeared for Everette E. Nelson,  
D.C. (Monaco and Oratio, attorney).

This matter was opened to the New Jersey State Board of Medical Examiners by Complaint and Notice of Hearing by the Attorney General dated August 11, 1977. The Complaint alleged that the respondent conducted allergy testing for profit by employing "chiropractic neurobiochemical analysis" on approximately 400 patients. This practice of allergy testing was conducted by respondent without reasonable evidence of scientific validity or efficacy. As the Complaint alleges, each test in this practice of allergy testing constitutes gross malpractice or gross neglect in the practice of chiropractic which endangered the health or life of individuals in violation of N.J.S.A. 45:9-16(h); this practice of allergy testing demonstrates the respondent's professional incompetence in chiropractic in violation of N.J.S.A. 45:9-16(i); and this practice of allergy testing constitutes fraud in chiropractic which denotes a lack of

good moral character required of a chiropractor by N.J.S.A. 45:9-6. The Complaint ended with a demand for relief requesting the New Jersey Board of Medical Examiners to suspend or revoke the respondent's license as a chiropractor, to assess penalties, and to order other and further relief as the Board deems fair and just.

The Board designated a Hearing Committee comprised of three members from the Board, namely, Edwin H. Albano, M.D., Irving Plain, M.D., and Arnold Cianciulli, D.C. This Hearing Committee held hearings on May 24, 1979, July 19, 1979, and August 30, 1979. Testimony was received from: Arlene Keiser, a patient of the respondent; J. Loren Rosenberg, M.D., expert in immunology and allergy; Neil Stern, D.C., expert in chiropractic; and the respondent. Marked into evidence were exhibits including:

- P1. Health Questionnaire filled out by Arlene Keiser.
- P2. Personal Data Card regarding Arlene Keiser.
- P3. Letter dated September 18, 1978 on respondent's letterhead stationary relating to Arlene Keiser.
- P4. Chiropractic Record concerning Arlene Keiser.
- P5. Transcript of appearance of respondent before a committee of the New Jersey Board of Medical Examiners on January 26, 1977.
- P6. Transcript of appearance of respondent before the New Jersey Board of Medical Examiners on March 9, 1977.
- P7. Letter dated September 13, 1979 from the Colorado State Board of Chiropractic Examiners concerning Walter K. Ehmann, D.C.

- P8. Letter dated September 18, 1979 from Robert J. Kovacs, D.C. as Chairman of the Commission on Insurance of the New Jersey Chiropractic Society concerning the respondent's billing for allergy tests.
- P9. Article entitled "Quantitative Measurement of Cutaneous Sensory Response to Vibration" by Hideto Ide and Sukiyo Obata.
- P10. Chapter 10 entitled "Molecular Vibrations" contained in "Chemical Applications of Group Theory" by F.A. Cotton.
- P11. Chapter 20 entitled "Sound Waves" contained in "Physics Part I and II" by D. Halliday and R. Resnick.
- P12. Article entitled "Relation between Vibratory Sensibility and Electric Signal of Living Body" by S. Obata.
- R1. Complaint by Attorney General instituting formal charges against respondent.
- R2. Letter dated September 20, 1977 from Jack Trubenbach, Esq. concerning the adjournment of a hearing scheduled for September 21, 1977.
- R3. Page 53 of the May/June 1975 edition of the Digest of Chiropractic Economics pertaining to an announcement of a seminar on Chiropractic Neuro-Biochemical Analysis by Walter K. Ehmann, D.C.
- R4. Article entitled "Did the Subluxation Cause my Allergy or Did my Allergy Cause my Subluxation?" by Glenn L. Jeffries, D.C.
- R5. Announcement of subjects in 1978 continuing education program by New York Chiropractic College.
- R6. Chapter IX entitled "Food Sensitivity, Nutrition, and the Subluxation" contained in "Applied Chiropractic in

Distortion Analysis" by William J. Kotheimer, D.C.

- R7. Letter dated October 26, 1976 from Robert J. Kovacs, D.C. with attached four pages concerning billing by respondent.
- R8. Paper on chiropractic neuro-biochemical analysis by Walter K. Ehmann, D.C.
- R9. Same as R4.
- R10. Paper entitled "Molecular Vibrations As the Basis of the Allergic Response" by Harold C. Nelson with attached copy of article same as P9.
- R11. Article entitled "Allergy" by Stephen F. Smith, Member Board of Chiropractic Examiners, State of Colorado (undated).
- R12. Letter dated January 11, 1977 from Alfred J. Schuster, Executive Secretary of New Jersey Board of Medical Examiners, requesting appearance of respondent before Board on January 26, 1977.
- R13. Letter dated February 23, 1977 from Alfred J. Schuster requesting appearance of respondent before Board on March 9, 1977.
- R14. Notice of Hearing dated August 11, 1977.
- R15. Letter with attachments dated February 10, 1976 from N.E. Sarmiento, Group Claim Consultant for Metropolitan Life concerning charges for allergy tests conducted by Glenn L. Jeffries, D.C.
- R16. Announcement in "Colorado Chiropractor" May 1976 regarding Walter K. Ehmann, D.C.

After the completion of the three hearing days, Proposed Findings of Fact and Conclusions of Law were submitted by the Attorney General's office. No proposed findings or conclusions were filed by the respondent. The Hearing Committee's Report and Recommended Findings of Fact was submitted to the Board and issued to both parties. Exceptions to the report of the hearing committee were filed by both the respondent and the Attorney General's office.

Having reviewed the testimony and other evidence adduced and having considered the argument of counsel, the Board of Medical Examiners adopts the Hearing Committee's Report and the following Findings of Fact contained therein.

Everette Nelson performed a procedure of allergy testing upon Arlene Keiser which involved the placement of glass vials containing food substances upon the clothing of Keiser over the area of her back. Based upon this allergy testing Everette Nelson concluded that Keiser was physically reacting to certain elements which were affecting her physical well-being, and he therefore recommended food supplements as treatment for her. The allergy test conducted by Everette Nelson has never been taught in approved chiropractic colleges. There is no scientific basis supporting the technique of allergy testing utilized by Everette Nelson when viewed according to the principles of chiropractic. There is no scientific basis supporting the technique of allergy testing utilized by Everette Nelson when viewed according to the principles of immunology or allergy.

The Board makes the following Conclusions of Law.

The practice of allergy testing which involves procedures for the diagnosis and treatment of sensitivity and/or allergy to food substances and other elements constitutes a practice which is beyond the scope of those acts which may be performed by a licensed chiropractor as set forth in N.J.S.A. 45:9-14.5. Everette Nelson's application of this false theory of allergy testing to patients who relied upon its conclusions derived by the respondent and who were misled into not seeking proper treatment constitutes gross malpractice and gross neglect in the practice of chiropractic which endangered the health of these patients in violation of N.J.S.A. 45:9-16(h). Everette Nelson's application of this false theory of allergy testing constitutes incompetence in the practice of chiropractic in violation of N.J.S.A. 45:9-16(i). Everette Nelson's misrepresentation to his patients that valid diagnostic results were derived from this false theory of allergy testing constitutes the lack of good moral character in violation of N.J.S.A. 45:9-6.

IT IS THEREFORE ON THIS 24 day of March, 1980  
ORDERED:

That the license of Everette E. Nelson, D.C. to practice chiropractic in the State of New Jersey be suspended for two (2) years; provided that the first three (3) months shall be an active suspension and the remaining seventeen (17) months shall be a period of probation on condition that the respondent restore to all patients treated by him by means of the false allergy testing the monetary fee charged by him for conducting this false allergy testing; in ful-

fillment of this condition the respondent shall submit to the Board within sixty (60) days of the date of this Order a list of names and addresses of all patients upon whom he conducted the allergy testing and itemize on said list of names and addresses the amount of monetary fee attributed to the allergy testing for each patient, and submit to the Board for approval the terms of total restoration to be made to all said patients of the said monetary fees. Said restoration is in addition to restoration paid to patient Arlene Keiser; and it is further

ORDERED:

That respondent is hereby assessed a penalty of \$200.00 for violation of N.J.S.A. 45:9-16(h) and (i), and N.J.S.A. 45:9-6, payable to the Board of Medical Examiners within ten (10) days of entry of this Order.

A handwritten signature in black ink, appearing to read "Edwin H. Albano", with a stylized flourish at the end.

EDWIN H. ALBANO, M.D. President  
New Jersey Board of Medical  
Examiners.